

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 2. The Freedom of Information Act is amended by
5 changing Section 7.5 as follows:

6 (5 ILCS 140/7.5)

7 Sec. 7.5. Statutory Exemptions. To the extent provided for
8 by the statutes referenced below, the following shall be exempt
9 from inspection and copying:

10 (a) All information determined to be confidential under
11 Section 4002 of the Technology Advancement and Development Act.

12 (b) Library circulation and order records identifying
13 library users with specific materials under the Library Records
14 Confidentiality Act.

15 (c) Applications, related documents, and medical records
16 received by the Experimental Organ Transplantation Procedures
17 Board and any and all documents or other records prepared by
18 the Experimental Organ Transplantation Procedures Board or its
19 staff relating to applications it has received.

20 (d) Information and records held by the Department of
21 Public Health and its authorized representatives relating to
22 known or suspected cases of sexually transmissible disease or
23 any information the disclosure of which is restricted under the

1 Illinois Sexually Transmissible Disease Control Act.

2 (e) Information the disclosure of which is exempted under
3 Section 30 of the Radon Industry Licensing Act.

4 (f) Firm performance evaluations under Section 55 of the
5 Architectural, Engineering, and Land Surveying Qualifications
6 Based Selection Act.

7 (g) Information the disclosure of which is restricted and
8 exempted under Section 50 of the Illinois Prepaid Tuition Act.

9 (h) Information the disclosure of which is exempted under
10 the State Officials and Employees Ethics Act, and records of
11 any lawfully created State or local inspector general's office
12 that would be exempt if created or obtained by an Executive
13 Inspector General's office under that Act.

14 (i) Information contained in a local emergency energy plan
15 submitted to a municipality in accordance with a local
16 emergency energy plan ordinance that is adopted under Section
17 11-21.5-5 of the Illinois Municipal Code.

18 (j) Information and data concerning the distribution of
19 surcharge moneys collected and remitted by wireless carriers
20 under the Wireless Emergency Telephone Safety Act.

21 (k) Law enforcement officer identification information or
22 driver identification information compiled by a law
23 enforcement agency or the Department of Transportation under
24 Section 11-212 of the Illinois Vehicle Code.

25 (l) Records and information provided to a residential
26 health care facility resident sexual assault and death review

1 team or the Executive Council under the Abuse Prevention Review
2 Team Act.

3 (m) Information provided to the predatory lending database
4 created pursuant to Article 3 of the Residential Real Property
5 Disclosure Act, except to the extent authorized under that
6 Article.

7 (n) Defense budgets and petitions for certification of
8 compensation and expenses for court appointed trial counsel as
9 provided under Sections 10 and 15 of the Capital Crimes
10 Litigation Act. This subsection (n) shall apply until the
11 conclusion of the trial of the case, even if the prosecution
12 chooses not to pursue the death penalty prior to trial or
13 sentencing.

14 (o) Information that is prohibited from being disclosed
15 under Section 4 of the Illinois Health and Hazardous Substances
16 Registry Act.

17 (p) Security portions of system safety program plans,
18 investigation reports, surveys, schedules, lists, data, or
19 information compiled, collected, or prepared by or for the
20 Regional Transportation Authority under Section 2.11 of the
21 Regional Transportation Authority Act or the St. Clair County
22 Transit District under the Bi-State Transit Safety Act.

23 (q) Information prohibited from being disclosed by the
24 Personnel Records Review Act.

25 (r) Information prohibited from being disclosed by the
26 Illinois School Student Records Act.

1 (s) Information the disclosure of which is restricted under
2 Section 5-108 of the Public Utilities Act.

3 (t) All identified or deidentified health information in
4 the form of health data or medical records contained in, stored
5 in, submitted to, transferred by, or released from the Illinois
6 Health Information Exchange, and identified or deidentified
7 health information in the form of health data and medical
8 records of the Illinois Health Information Exchange in the
9 possession of the Illinois Health Information Exchange
10 Authority due to its administration of the Illinois Health
11 Information Exchange. The terms "identified" and
12 "deidentified" shall be given the same meaning as in the Health
13 Insurance Accountability and Portability Act of 1996, Public
14 Law 104-191, or any subsequent amendments thereto, and any
15 regulations promulgated thereunder.

16 (u) Records and information provided to an independent team
17 of experts under Brian's Law.

18 (v) Names and information of people who have applied for or
19 received Firearm Owner's Identification Cards under the
20 Firearm Owners Identification Card Act.

21 (w) Personally identifiable information which is exempted
22 from disclosure under subsection (g) of Section 19.1 of the
23 Toll Highway Act.

24 (x) Information which is exempted from disclosure under
25 Section 5-1014.3 of the Counties Code or Section 8-11-21 of the
26 Illinois Municipal Code.

1 (y) Any and all abstract data and information collected
2 under Section 7.7 of the Illinois Criminal Justice Information
3 Act.

4 (Source: P.A. 96-542, eff. 1-1-10; 96-1235, eff. 1-1-11;
5 96-1331, eff. 7-27-10; 97-80, eff. 7-5-11; 97-333, eff.
6 8-12-11; 97-342, eff. 8-12-11; 97-813, eff. 7-13-12; 97-976,
7 eff. 1-1-13.)

8 Section 5. The Illinois Criminal Justice Information Act is
9 amended by adding Section 7.7 as follows:

10 (20 ILCS 3930/7.7 new)

11 Sec. 7.7. Electronic Recordings Database.

12 (a) Subject to appropriation, an Electronic Recordings
13 Database is created within the Illinois Criminal Justice
14 Information Authority.

15 (b) The Illinois Criminal Justice Information Authority
16 shall collect and retain in the Electronic Recordings Database
17 all abstract data of the numbers of investigations and types of
18 crimes captured during the electronic recording of custodial
19 interrogations under Section 5-401.5 of the Juvenile Court Act
20 of 1987 and Section 103-2.1 of the Code of Criminal Procedure
21 of 1963. The Electronic Recordings Database shall serve as a
22 repository for all of the foregoing collected abstract data.

23 (c) The Illinois Criminal Justice Information Authority
24 shall develop administrative rules to provide for the

1 coordination and collection of abstract data relating to the
2 Electronic Recordings Database from all law enforcement
3 agencies in this State, which shall be shared only with other
4 government agencies.

5 (d) The Illinois Criminal Justice Information Authority
6 shall develop procedures and protocols for the submission of
7 abstract data to the Database in conjunction with the agencies
8 submitting abstract data.

9 Section 10. The Juvenile Court Act of 1987 is amended by
10 changing Section 5-401.5 as follows:

11 (705 ILCS 405/5-401.5)

12 Sec. 5-401.5. When statements by minor may be used.

13 (a) In this Section, "custodial interrogation" means any
14 interrogation (i) during which a reasonable person in the
15 subject's position would consider himself or herself to be in
16 custody and (ii) during which a question is asked that is
17 reasonably likely to elicit an incriminating response.

18 In this Section, "electronic recording" includes motion
19 picture, audiotape, videotape, or digital recording.

20 In this Section, "place of detention" means a building or a
21 police station that is a place of operation for a municipal
22 police department or county sheriff department or other law
23 enforcement agency at which persons are or may be held in
24 detention in connection with criminal charges against those

1 persons or allegations that those persons are delinquent
2 minors.

3 (b) An oral, written, or sign language statement of a minor
4 who, at the time of the commission of the offense was under the
5 age of 17 years, made as a result of a custodial interrogation
6 conducted at a police station or other place of detention on or
7 after the effective date of this amendatory Act of the 93rd
8 General Assembly shall be presumed to be inadmissible as
9 evidence against the minor in any criminal proceeding or
10 juvenile court proceeding, for an act that if committed by an
11 adult would be brought under Section 9-1, 9-1.2, 9-2, 9-2.1,
12 9-3, 9-3.2, or 9-3.3, of the Criminal Code of 1961 or the
13 Criminal Code of 2012, or under clause (d)(1)(F) of Section
14 11-501 of the Illinois Vehicle Code unless:

15 (1) an electronic recording is made of the custodial
16 interrogation; and

17 (2) the recording is substantially accurate and not
18 intentionally altered.

19 (b-1) Electronic recordings may be made of statements of a
20 minor regarding felony offenses in addition to those enumerated
21 in subsection (b).

22 (c) Every electronic recording prepared ~~required~~ under
23 this Section must be preserved until such time as the minor's
24 adjudication for any offense relating to the statement is final
25 and all direct and habeas corpus appeals are exhausted, or the
26 prosecution of such offenses is barred by law.

1 (d) If the court finds, by a preponderance of the evidence,
2 that the minor was subjected to a custodial interrogation in
3 violation of subsection (b) ~~this Section~~, then any statements
4 made by the minor during or following that non-recorded
5 custodial interrogation, even if otherwise in compliance with
6 this Section, are presumed to be inadmissible in any criminal
7 proceeding or juvenile court proceeding against the minor
8 except for the purposes of impeachment.

9 (e) Nothing in this Section precludes the admission (i) of
10 a statement made by the minor in open court in any criminal
11 proceeding or juvenile court proceeding, before a grand jury,
12 or at a preliminary hearing, (ii) of a statement made during a
13 custodial interrogation that was not recorded as required by
14 this Section because electronic recording was not feasible,
15 (iii) of a voluntary statement, whether or not the result of a
16 custodial interrogation, that has a bearing on the credibility
17 of the accused as a witness, (iv) of a spontaneous statement
18 that is not made in response to a question, (v) of a statement
19 made after questioning that is routinely asked during the
20 processing of the arrest of the suspect, (vi) of a statement
21 made during a custodial interrogation by a suspect who
22 requests, prior to making the statement, to respond to the
23 interrogator's questions only if an electronic recording is not
24 made of the statement, provided that an electronic recording is
25 made of the statement of agreeing to respond to the
26 interrogator's question, only if a recording is not made of the

1 statement, (vii) of a statement made during a custodial
2 interrogation that is conducted out-of-state, (viii) of a
3 statement given at a time when the interrogators are unaware
4 that a death has in fact occurred, or (ix) of any other
5 statement that may be admissible under law. The State shall
6 bear the burden of proving, by a preponderance of the evidence,
7 that one of the exceptions described in this subsection (e) is
8 applicable. Nothing in this Section precludes the admission of
9 a statement, otherwise inadmissible under this Section, that is
10 used only for impeachment and not as substantive evidence.
11 Nothing in this Section precludes the admission of a statement
12 in a criminal court proceeding or juvenile court proceeding
13 involving a felony offense other than those enumerated in
14 subsection (b).

15 (f) The presumption of inadmissibility of a statement made
16 by a suspect at a custodial interrogation at a police station
17 or other place of detention may be overcome by a preponderance
18 of the evidence that the statement was voluntarily given and is
19 reliable, based on the totality of the circumstances.

20 (g) Any electronic recording of any statement made by a
21 minor during a custodial interrogation that is compiled by any
22 law enforcement agency ~~as required by this Section for the~~
23 ~~purposes of fulfilling the requirements of this Section~~ shall
24 be confidential and exempt from public inspection and copying,
25 as provided under Section 7 of the Freedom of Information Act,
26 and the information shall not be transmitted to anyone except

1 as needed to comply with this Section.

2 (g-1) All law enforcement agencies shall submit monthly
3 reports to the Electronic Recordings Database in the Illinois
4 Criminal Justice Information Authority regarding any
5 electronic recordings made under this Section in a form and in
6 a manner as may be prescribed by rules adopted by the Illinois
7 Criminal Justice Information Authority.

8 (h) A statement, admission, confession, or incriminating
9 information made by or obtained from a minor related to the
10 instant offense, as part of any behavioral health screening,
11 assessment, evaluation, or treatment, whether or not
12 court-ordered, shall not be admissible as evidence against the
13 minor on the issue of guilt only in the instant juvenile court
14 proceeding. The provisions of this subsection (h) are in
15 addition to and do not override any existing statutory and
16 constitutional prohibition on the admission into evidence in
17 delinquency proceedings of information obtained during
18 screening, assessment, or treatment.

19 (Source: P.A. 96-1251, eff. 1-1-11; 97-1150, eff. 1-25-13.)

20 Section 15. The Criminal Code of 2012 is amended by
21 changing Section 14-3 as follows:

22 (720 ILCS 5/14-3)

23 Sec. 14-3. Exemptions. The following activities shall be
24 exempt from the provisions of this Article:

1 (a) Listening to radio, wireless and television
2 communications of any sort where the same are publicly made;

3 (b) Hearing conversation when heard by employees of any
4 common carrier by wire incidental to the normal course of their
5 employment in the operation, maintenance or repair of the
6 equipment of such common carrier by wire so long as no
7 information obtained thereby is used or divulged by the hearer;

8 (c) Any broadcast by radio, television or otherwise whether
9 it be a broadcast or recorded for the purpose of later
10 broadcasts of any function where the public is in attendance
11 and the conversations are overheard incidental to the main
12 purpose for which such broadcasts are then being made;

13 (d) Recording or listening with the aid of any device to
14 any emergency communication made in the normal course of
15 operations by any federal, state or local law enforcement
16 agency or institutions dealing in emergency services,
17 including, but not limited to, hospitals, clinics, ambulance
18 services, fire fighting agencies, any public utility,
19 emergency repair facility, civilian defense establishment or
20 military installation;

21 (e) Recording the proceedings of any meeting required to be
22 open by the Open Meetings Act, as amended;

23 (f) Recording or listening with the aid of any device to
24 incoming telephone calls of phone lines publicly listed or
25 advertised as consumer "hotlines" by manufacturers or
26 retailers of food and drug products. Such recordings must be

1 destroyed, erased or turned over to local law enforcement
2 authorities within 24 hours from the time of such recording and
3 shall not be otherwise disseminated. Failure on the part of the
4 individual or business operating any such recording or
5 listening device to comply with the requirements of this
6 subsection shall eliminate any civil or criminal immunity
7 conferred upon that individual or business by the operation of
8 this Section;

9 (g) With prior notification to the State's Attorney of the
10 county in which it is to occur, recording or listening with the
11 aid of any device to any conversation where a law enforcement
12 officer, or any person acting at the direction of law
13 enforcement, is a party to the conversation and has consented
14 to it being intercepted or recorded under circumstances where
15 the use of the device is necessary for the protection of the
16 law enforcement officer or any person acting at the direction
17 of law enforcement, in the course of an investigation of a
18 forcible felony, a felony offense of involuntary servitude,
19 involuntary sexual servitude of a minor, or trafficking in
20 persons under Section 10-9 of this Code, an offense involving
21 prostitution, solicitation of a sexual act, or pandering, a
22 felony violation of the Illinois Controlled Substances Act, a
23 felony violation of the Cannabis Control Act, a felony
24 violation of the Methamphetamine Control and Community
25 Protection Act, any "streetgang related" or "gang-related"
26 felony as those terms are defined in the Illinois Streetgang

1 Terrorism Omnibus Prevention Act, or any felony offense
2 involving any weapon listed in paragraphs (1) through (11) of
3 subsection (a) of Section 24-1 of this Code. Any recording or
4 evidence derived as the result of this exemption shall be
5 inadmissible in any proceeding, criminal, civil or
6 administrative, except (i) where a party to the conversation
7 suffers great bodily injury or is killed during such
8 conversation, or (ii) when used as direct impeachment of a
9 witness concerning matters contained in the interception or
10 recording. The Director of the Department of State Police shall
11 issue regulations as are necessary concerning the use of
12 devices, retention of tape recordings, and reports regarding
13 their use;

14 (g-5) With approval of the State's Attorney of the county
15 in which it is to occur, recording or listening with the aid of
16 any device to any conversation where a law enforcement officer,
17 or any person acting at the direction of law enforcement, is a
18 party to the conversation and has consented to it being
19 intercepted or recorded in the course of an investigation of
20 any offense defined in Article 29D of this Code. In all such
21 cases, an application for an order approving the previous or
22 continuing use of an eavesdropping device must be made within
23 48 hours of the commencement of such use. In the absence of
24 such an order, or upon its denial, any continuing use shall
25 immediately terminate. The Director of State Police shall issue
26 rules as are necessary concerning the use of devices, retention

1 of tape recordings, and reports regarding their use.

2 Any recording or evidence obtained or derived in the course
3 of an investigation of any offense defined in Article 29D of
4 this Code shall, upon motion of the State's Attorney or
5 Attorney General prosecuting any violation of Article 29D, be
6 reviewed in camera with notice to all parties present by the
7 court presiding over the criminal case, and, if ruled by the
8 court to be relevant and otherwise admissible, it shall be
9 admissible at the trial of the criminal case.

10 This subsection (g-5) is inoperative on and after January
11 1, 2005. No conversations recorded or monitored pursuant to
12 this subsection (g-5) shall be inadmissible in a court of law
13 by virtue of the repeal of this subsection (g-5) on January 1,
14 2005;

15 (g-6) With approval of the State's Attorney of the county
16 in which it is to occur, recording or listening with the aid of
17 any device to any conversation where a law enforcement officer,
18 or any person acting at the direction of law enforcement, is a
19 party to the conversation and has consented to it being
20 intercepted or recorded in the course of an investigation of
21 involuntary servitude, involuntary sexual servitude of a
22 minor, trafficking in persons, child pornography, aggravated
23 child pornography, indecent solicitation of a child, child
24 abduction, luring of a minor, sexual exploitation of a child,
25 predatory criminal sexual assault of a child, aggravated
26 criminal sexual abuse in which the victim of the offense was at

1 the time of the commission of the offense under 18 years of
2 age, criminal sexual abuse by force or threat of force in which
3 the victim of the offense was at the time of the commission of
4 the offense under 18 years of age, or aggravated criminal
5 sexual assault in which the victim of the offense was at the
6 time of the commission of the offense under 18 years of age. In
7 all such cases, an application for an order approving the
8 previous or continuing use of an eavesdropping device must be
9 made within 48 hours of the commencement of such use. In the
10 absence of such an order, or upon its denial, any continuing
11 use shall immediately terminate. The Director of State Police
12 shall issue rules as are necessary concerning the use of
13 devices, retention of recordings, and reports regarding their
14 use. Any recording or evidence obtained or derived in the
15 course of an investigation of involuntary servitude,
16 involuntary sexual servitude of a minor, trafficking in
17 persons, child pornography, aggravated child pornography,
18 indecent solicitation of a child, child abduction, luring of a
19 minor, sexual exploitation of a child, predatory criminal
20 sexual assault of a child, aggravated criminal sexual abuse in
21 which the victim of the offense was at the time of the
22 commission of the offense under 18 years of age, criminal
23 sexual abuse by force or threat of force in which the victim of
24 the offense was at the time of the commission of the offense
25 under 18 years of age, or aggravated criminal sexual assault in
26 which the victim of the offense was at the time of the

1 commission of the offense under 18 years of age shall, upon
2 motion of the State's Attorney or Attorney General prosecuting
3 any case involving involuntary servitude, involuntary sexual
4 servitude of a minor, trafficking in persons, child
5 pornography, aggravated child pornography, indecent
6 solicitation of a child, child abduction, luring of a minor,
7 sexual exploitation of a child, predatory criminal sexual
8 assault of a child, aggravated criminal sexual abuse in which
9 the victim of the offense was at the time of the commission of
10 the offense under 18 years of age, criminal sexual abuse by
11 force or threat of force in which the victim of the offense was
12 at the time of the commission of the offense under 18 years of
13 age, or aggravated criminal sexual assault in which the victim
14 of the offense was at the time of the commission of the offense
15 under 18 years of age, be reviewed in camera with notice to all
16 parties present by the court presiding over the criminal case,
17 and, if ruled by the court to be relevant and otherwise
18 admissible, it shall be admissible at the trial of the criminal
19 case. Absent such a ruling, any such recording or evidence
20 shall not be admissible at the trial of the criminal case;

21 (h) Recordings made simultaneously with the use of an
22 in-car video camera recording of an oral conversation between a
23 uniformed peace officer, who has identified his or her office,
24 and a person in the presence of the peace officer whenever (i)
25 an officer assigned a patrol vehicle is conducting an
26 enforcement stop; or (ii) patrol vehicle emergency lights are

1 activated or would otherwise be activated if not for the need
2 to conceal the presence of law enforcement.

3 For the purposes of this subsection (h), "enforcement stop"
4 means an action by a law enforcement officer in relation to
5 enforcement and investigation duties, including but not
6 limited to, traffic stops, pedestrian stops, abandoned vehicle
7 contacts, motorist assists, commercial motor vehicle stops,
8 roadside safety checks, requests for identification, or
9 responses to requests for emergency assistance;

10 (h-5) Recordings of utterances made by a person while in
11 the presence of a uniformed peace officer and while an occupant
12 of a police vehicle including, but not limited to, (i)
13 recordings made simultaneously with the use of an in-car video
14 camera and (ii) recordings made in the presence of the peace
15 officer utilizing video or audio systems, or both, authorized
16 by the law enforcement agency;

17 (h-10) Recordings made simultaneously with a video camera
18 recording during the use of a taser or similar weapon or device
19 by a peace officer if the weapon or device is equipped with
20 such camera;

21 (h-15) Recordings made under subsection (h), (h-5), or
22 (h-10) shall be retained by the law enforcement agency that
23 employs the peace officer who made the recordings for a storage
24 period of 90 days, unless the recordings are made as a part of
25 an arrest or the recordings are deemed evidence in any
26 criminal, civil, or administrative proceeding and then the

1 recordings must only be destroyed upon a final disposition and
2 an order from the court. Under no circumstances shall any
3 recording be altered or erased prior to the expiration of the
4 designated storage period. Upon completion of the storage
5 period, the recording medium may be erased and reissued for
6 operational use;

7 (i) Recording of a conversation made by or at the request
8 of a person, not a law enforcement officer or agent of a law
9 enforcement officer, who is a party to the conversation, under
10 reasonable suspicion that another party to the conversation is
11 committing, is about to commit, or has committed a criminal
12 offense against the person or a member of his or her immediate
13 household, and there is reason to believe that evidence of the
14 criminal offense may be obtained by the recording;

15 (j) The use of a telephone monitoring device by either (1)
16 a corporation or other business entity engaged in marketing or
17 opinion research or (2) a corporation or other business entity
18 engaged in telephone solicitation, as defined in this
19 subsection, to record or listen to oral telephone solicitation
20 conversations or marketing or opinion research conversations
21 by an employee of the corporation or other business entity
22 when:

23 (i) the monitoring is used for the purpose of service
24 quality control of marketing or opinion research or
25 telephone solicitation, the education or training of
26 employees or contractors engaged in marketing or opinion

1 research or telephone solicitation, or internal research
2 related to marketing or opinion research or telephone
3 solicitation; and

4 (ii) the monitoring is used with the consent of at
5 least one person who is an active party to the marketing or
6 opinion research conversation or telephone solicitation
7 conversation being monitored.

8 No communication or conversation or any part, portion, or
9 aspect of the communication or conversation made, acquired, or
10 obtained, directly or indirectly, under this exemption (j), may
11 be, directly or indirectly, furnished to any law enforcement
12 officer, agency, or official for any purpose or used in any
13 inquiry or investigation, or used, directly or indirectly, in
14 any administrative, judicial, or other proceeding, or divulged
15 to any third party.

16 When recording or listening authorized by this subsection
17 (j) on telephone lines used for marketing or opinion research
18 or telephone solicitation purposes results in recording or
19 listening to a conversation that does not relate to marketing
20 or opinion research or telephone solicitation; the person
21 recording or listening shall, immediately upon determining
22 that the conversation does not relate to marketing or opinion
23 research or telephone solicitation, terminate the recording or
24 listening and destroy any such recording as soon as is
25 practicable.

26 Business entities that use a telephone monitoring or

1 telephone recording system pursuant to this exemption (j) shall
2 provide current and prospective employees with notice that the
3 monitoring or recordings may occur during the course of their
4 employment. The notice shall include prominent signage
5 notification within the workplace.

6 Business entities that use a telephone monitoring or
7 telephone recording system pursuant to this exemption (j) shall
8 provide their employees or agents with access to personal-only
9 telephone lines which may be pay telephones, that are not
10 subject to telephone monitoring or telephone recording.

11 For the purposes of this subsection (j), "telephone
12 solicitation" means a communication through the use of a
13 telephone by live operators:

- 14 (i) soliciting the sale of goods or services;
15 (ii) receiving orders for the sale of goods or
16 services;
17 (iii) assisting in the use of goods or services; or
18 (iv) engaging in the solicitation, administration, or
19 collection of bank or retail credit accounts.

20 For the purposes of this subsection (j), "marketing or
21 opinion research" means a marketing or opinion research
22 interview conducted by a live telephone interviewer engaged by
23 a corporation or other business entity whose principal business
24 is the design, conduct, and analysis of polls and surveys
25 measuring the opinions, attitudes, and responses of
26 respondents toward products and services, or social or

1 political issues, or both;

2 (k) Electronic recordings, including but not limited to, a
3 motion picture, videotape, digital, or other visual or audio
4 recording, made of a custodial interrogation of an individual
5 at a police station or other place of detention by a law
6 enforcement officer or prosecutor ~~under Section 5-401.5 of the~~
7 ~~Juvenile Court Act of 1987 or Section 103-2.1 of the Code of~~
8 ~~Criminal Procedure of 1963;~~

9 (l) Recording the interview or statement of any person when
10 the person knows that the interview is being conducted by a law
11 enforcement officer or prosecutor and the interview takes place
12 at a police station that is currently participating in the
13 Custodial Interview Pilot Program established under the
14 Illinois Criminal Justice Information Act;

15 (m) An electronic recording, including but not limited to,
16 a motion picture, videotape, digital, or other visual or audio
17 recording, made of the interior of a school bus while the
18 school bus is being used in the transportation of students to
19 and from school and school-sponsored activities, when the
20 school board has adopted a policy authorizing such recording,
21 notice of such recording policy is included in student
22 handbooks and other documents including the policies of the
23 school, notice of the policy regarding recording is provided to
24 parents of students, and notice of such recording is clearly
25 posted on the door of and inside the school bus.

26 Recordings made pursuant to this subsection (m) shall be

1 confidential records and may only be used by school officials
2 (or their designees) and law enforcement personnel for
3 investigations, school disciplinary actions and hearings,
4 proceedings under the Juvenile Court Act of 1987, and criminal
5 prosecutions, related to incidents occurring in or around the
6 school bus;

7 (n) Recording or listening to an audio transmission from a
8 microphone placed by a person under the authority of a law
9 enforcement agency inside a bait car surveillance vehicle while
10 simultaneously capturing a photographic or video image;

11 (o) The use of an eavesdropping camera or audio device
12 during an ongoing hostage or barricade situation by a law
13 enforcement officer or individual acting on behalf of a law
14 enforcement officer when the use of such device is necessary to
15 protect the safety of the general public, hostages, or law
16 enforcement officers or anyone acting on their behalf;

17 (p) Recording or listening with the aid of any device to
18 incoming telephone calls of phone lines publicly listed or
19 advertised as the "CPS Violence Prevention Hotline", but only
20 where the notice of recording is given at the beginning of each
21 call as required by Section 34-21.8 of the School Code. The
22 recordings may be retained only by the Chicago Police
23 Department or other law enforcement authorities, and shall not
24 be otherwise retained or disseminated; and

25 (q) (1) With prior request to and verbal approval of the
26 State's Attorney of the county in which the conversation is

1 anticipated to occur, recording or listening with the aid of an
2 eavesdropping device to a conversation in which a law
3 enforcement officer, or any person acting at the direction of a
4 law enforcement officer, is a party to the conversation and has
5 consented to the conversation being intercepted or recorded in
6 the course of an investigation of a drug offense. The State's
7 Attorney may grant this verbal approval only after determining
8 that reasonable cause exists to believe that a drug offense
9 will be committed by a specified individual or individuals
10 within a designated period of time.

11 (2) Request for approval. To invoke the exception contained
12 in this subsection (q), a law enforcement officer shall make a
13 written or verbal request for approval to the appropriate
14 State's Attorney. This request for approval shall include
15 whatever information is deemed necessary by the State's
16 Attorney but shall include, at a minimum, the following
17 information about each specified individual whom the law
18 enforcement officer believes will commit a drug offense:

19 (A) his or her full or partial name, nickname or alias;

20 (B) a physical description; or

21 (C) failing either (A) or (B) of this paragraph (2),
22 any other supporting information known to the law
23 enforcement officer at the time of the request that gives
24 rise to reasonable cause to believe the individual will
25 commit a drug offense.

26 (3) Limitations on verbal approval. Each verbal approval by

1 the State's Attorney under this subsection (q) shall be limited
2 to:

3 (A) a recording or interception conducted by a
4 specified law enforcement officer or person acting at the
5 direction of a law enforcement officer;

6 (B) recording or intercepting conversations with the
7 individuals specified in the request for approval,
8 provided that the verbal approval shall be deemed to
9 include the recording or intercepting of conversations
10 with other individuals, unknown to the law enforcement
11 officer at the time of the request for approval, who are
12 acting in conjunction with or as co-conspirators with the
13 individuals specified in the request for approval in the
14 commission of a drug offense;

15 (C) a reasonable period of time but in no event longer
16 than 24 consecutive hours.

17 (4) Admissibility of evidence. No part of the contents of
18 any wire, electronic, or oral communication that has been
19 recorded or intercepted as a result of this exception may be
20 received in evidence in any trial, hearing, or other proceeding
21 in or before any court, grand jury, department, officer,
22 agency, regulatory body, legislative committee, or other
23 authority of this State, or a political subdivision of the
24 State, other than in a prosecution of:

25 (A) a drug offense;

26 (B) a forcible felony committed directly in the course

1 of the investigation of a drug offense for which verbal
2 approval was given to record or intercept a conversation
3 under this subsection (q); or

4 (C) any other forcible felony committed while the
5 recording or interception was approved in accordance with
6 this Section (q), but for this specific category of
7 prosecutions, only if the law enforcement officer or person
8 acting at the direction of a law enforcement officer who
9 has consented to the conversation being intercepted or
10 recorded suffers great bodily injury or is killed during
11 the commission of the charged forcible felony.

12 (5) Compliance with the provisions of this subsection is a
13 prerequisite to the admissibility in evidence of any part of
14 the contents of any wire, electronic or oral communication that
15 has been intercepted as a result of this exception, but nothing
16 in this subsection shall be deemed to prevent a court from
17 otherwise excluding the evidence on any other ground, nor shall
18 anything in this subsection be deemed to prevent a court from
19 independently reviewing the admissibility of the evidence for
20 compliance with the Fourth Amendment to the U.S. Constitution
21 or with Article I, Section 6 of the Illinois Constitution.

22 (6) Use of recordings or intercepts unrelated to drug
23 offenses. Whenever any wire, electronic, or oral communication
24 has been recorded or intercepted as a result of this exception
25 that is not related to a drug offense or a forcible felony
26 committed in the course of a drug offense, no part of the

1 contents of the communication and evidence derived from the
2 communication may be received in evidence in any trial,
3 hearing, or other proceeding in or before any court, grand
4 jury, department, officer, agency, regulatory body,
5 legislative committee, or other authority of this State, or a
6 political subdivision of the State, nor may it be publicly
7 disclosed in any way.

8 (7) Definitions. For the purposes of this subsection (q)
9 only:

10 "Drug offense" includes and is limited to a felony
11 violation of one of the following: (A) the Illinois
12 Controlled Substances Act, (B) the Cannabis Control Act,
13 and (C) the Methamphetamine Control and Community
14 Protection Act.

15 "Forcible felony" includes and is limited to those
16 offenses contained in Section 2-8 of the Criminal Code of
17 1961 as of the effective date of this amendatory Act of the
18 97th General Assembly, and only as those offenses have been
19 defined by law or judicial interpretation as of that date.

20 "State's Attorney" includes and is limited to the
21 State's Attorney or an assistant State's Attorney
22 designated by the State's Attorney to provide verbal
23 approval to record or intercept conversations under this
24 subsection (q).

25 (8) Sunset. This subsection (q) is inoperative on and after
26 January 1, 2015. No conversations intercepted pursuant to this

1 subsection (q), while operative, shall be inadmissible in a
2 court of law by virtue of the inoperability of this subsection
3 (q) on January 1, 2015.

4 (Source: P.A. 96-425, eff. 8-13-09; 96-547, eff. 1-1-10;
5 96-643, eff. 1-1-10; 96-670, eff. 8-25-09; 96-1000, eff.
6 7-2-10; 96-1425, eff. 1-1-11; 96-1464, eff. 8-20-10; 97-333,
7 eff. 8-12-11; 97-846, eff. 1-1-13; 97-897, eff. 1-1-13; revised
8 8-23-12.)

9 Section 20. The Code of Criminal Procedure of 1963 is
10 amended by changing Section 103-2.1 as follows:

11 (725 ILCS 5/103-2.1)

12 Sec. 103-2.1. When statements by accused may be used.

13 (a) In this Section, "custodial interrogation" means any
14 interrogation during which (i) a reasonable person in the
15 subject's position would consider himself or herself to be in
16 custody and (ii) during which a question is asked that is
17 reasonably likely to elicit an incriminating response.

18 In this Section, "place of detention" means a building or a
19 police station that is a place of operation for a municipal
20 police department or county sheriff department or other law
21 enforcement agency, not a courthouse, that is owned or operated
22 by a law enforcement agency at which persons are or may be held
23 in detention in connection with criminal charges against those
24 persons.

1 In this Section, "electronic recording" includes motion
2 picture, audiotape, or videotape, or digital recording.

3 (b) An oral, written, or sign language statement of an
4 accused made as a result of a custodial interrogation at a
5 police station or other place of detention shall be presumed to
6 be inadmissible as evidence against the accused in any criminal
7 proceeding brought under Section 9-1, 9-1.2, 9-2, 9-2.1, 9-3,
8 9-3.2, or 9-3.3 of the Criminal Code of 1961 or the Criminal
9 Code of 2012 or under clause (d) (1) (F) of Section 11-501 of the
10 Illinois Vehicle Code unless:

11 (1) an electronic recording is made of the custodial
12 interrogation; and

13 (2) the recording is substantially accurate and not
14 intentionally altered.

15 (b-1) Electronic recordings may be made of statements of an
16 accused regarding felony offenses in addition to those
17 enumerated in subsection (b).

18 (c) Every electronic recording prepared ~~required~~ under
19 this Section must be preserved until such time as the
20 defendant's conviction for any offense relating to the
21 statement is final and all direct and habeas corpus appeals are
22 exhausted, or the prosecution of such offenses is barred by
23 law.

24 (d) If the court finds, by a preponderance of the evidence,
25 that the defendant was subjected to a custodial interrogation
26 in violation of subsection (b) ~~this Section~~, then any

1 statements made by the defendant during or following that
2 non-recorded custodial interrogation, even if otherwise in
3 compliance with this Section, are presumed to be inadmissible
4 in any criminal proceeding against the defendant except for the
5 purposes of impeachment.

6 (e) Nothing in this Section precludes the admission (i) of
7 a statement made by the accused in open court at his or her
8 trial, before a grand jury, or at a preliminary hearing, (ii)
9 of a statement made during a custodial interrogation that was
10 not recorded as required by this Section, because electronic
11 recording was not feasible, (iii) of a voluntary statement,
12 whether or not the result of a custodial interrogation, that
13 has a bearing on the credibility of the accused as a witness,
14 (iv) of a spontaneous statement that is not made in response to
15 a question, (v) of a statement made after questioning that is
16 routinely asked during the processing of the arrest of the
17 suspect, (vi) of a statement made during a custodial
18 interrogation by a suspect who requests, prior to making the
19 statement, to respond to the interrogator's questions only if
20 an electronic recording is not made of the statement, provided
21 that an electronic recording is made of the statement of
22 agreeing to respond to the interrogator's question, only if a
23 recording is not made of the statement, (vii) of a statement
24 made during a custodial interrogation that is conducted
25 out-of-state, (viii) of a statement given at a time when the
26 interrogators are unaware that a death has in fact occurred, or

1 (ix) of any other statement that may be admissible under law.
2 The State shall bear the burden of proving, by a preponderance
3 of the evidence, that one of the exceptions described in this
4 subsection (e) is applicable. Nothing in this Section precludes
5 the admission of a statement, otherwise inadmissible under this
6 Section, that is used only for impeachment and not as
7 substantive evidence. Nothing in this Section precludes the
8 admission of a statement in a prosecution for a felony offense
9 other than those enumerated in subsection (b).

10 (f) The presumption of inadmissibility of a statement made
11 by a suspect at a custodial interrogation at a police station
12 or other place of detention may be overcome by a preponderance
13 of the evidence that the statement was voluntarily given and is
14 reliable, based on the totality of the circumstances.

15 (g) Any electronic recording of any statement made by an
16 accused during a custodial interrogation that is compiled by
17 any law enforcement agency ~~as required by this Section for the~~
18 ~~purposes of fulfilling the requirements of this Section~~ shall
19 be confidential and exempt from public inspection and copying,
20 as provided under Section 7 of the Freedom of Information Act,
21 and the information shall not be transmitted to anyone except
22 as needed to comply with this Section.

23 (h) All law enforcement agencies shall submit monthly
24 reports to the Electronic Recordings Database in the Illinois
25 Criminal Justice Information Authority regarding any
26 electronic recordings made under this Section in a form and in

1 a manner as may be prescribed by rules adopted by the Illinois

2 Criminal Justice Information Authority.

3 (Source: P.A. 97-1150, eff. 1-25-13.)